

GROUND LEASE

THIS GROUND LEASE ("the Lease") is made and entered of this 15th day of September, 1988, by and between N.p. PARTNERSHIP, an Ch4 limited partnership, whose mailing address is P.O. Box 26255, Cincinnati, Ohio 43226-0255 ("Lessor"), and A3L&S GOLF CENTER L - :MI"rr--'o PARTNERSHIP, an Ohio limited partnership whose mailing address is c/o Phillip L. Harman, Attorney at Law, Suite LL4, 6649 North High Street, Worthington, Ohio 43085 ("Lessee"), who hereby agree as follows:

ARTICLE 1. DEMISE OF LEASED LAND

51.01 Demise of Leased Land. On the terms and subject to the conditions set forth herein, Lessor for and in consideration of the rents, covenants, and conditions herein contained to be kept, performed, and observed by Lessee, does lease and demise to Lessee, and Lessee does rent and accept from Lessor, the real property located in Delaware County, Ohio and more fully described in Exhibit A (the "Leased Land").

On or before December 31, 1988 (the "Contingency Date"), Lessee shall at its sole expense obtain and provide to Lessor the following items:

- (a) A satisfactory conditional use permit from the Delaware County Board of Zoning Appeals or its representative to authorize the use of the Leased Land for the construction and operation of a lighted golf driving range, a retail golf shop, putting and chipping greens, a restaurant, suitable off street parking and related facilities (the "Project*");
- (b) A final recorded lot split of the Leased Land, and a separate tax parcel number separating it from adjacent land owned by Lessor (the "Lessor's Other Land");
- (c) A satisfactory building permit for the construction of the Project on the Leased Land;
- (d) Lessee's written certification to Lessor that it has received approval from the Ohio Division of Securities of a disclosure statement for Lessee, or a satisfactory opinion from counsel that such approval is not necessary;
- (e) Lessee's written certification to Lessor that it has received at least \$410,000 of irrevocable subscriptions for limited partnership units in Lessee permit Lessee to complete the Project;
- (f) A final set of the Project Plans (as defined in S5.01, below) in form and content satisfactory to Lessor;
- (g) A final boundary survey, legal description and site plan for the Leased Land and the Project in form and content satisfactory to Lessor;
- (h) Lessee's written certification to Lessor that it has received quotes satisfactory to Lessee from contractors within the budget guidelines to complete the Project on the Leased Land; and
- (i) Evidence satisfactory to Lessee of Lessor's title to the Leased Land.

In the event that Lessee does not obtain and provide to Lessor all of the above items by the Contingency Date, then either party shall have the right at its option to terminate this agreement at any time

thereafter, by giving notice of termination to the other party; provided that no such termination shall relieve either party from performing all obligations to be performed by that party under this agreement prior to the date of such termination notice. **in** addition, notwithstanding any provision of this Lease to the contrary, Lessee shall not be permitted to commence construction of the Project or to undertake any other activities on the Leased Land until it **has** obtained all of the above items to its and Lessor's satisfaction.

SI.02 Lessor's Warranty of Title. Lessor hereby represents and warrants to Lessee that Lessor is the owner in fee simple absolute of the Leased Land subject to zoning laws; legal highways; covenants, conditions, restrictions, easements, and other matters of record; a first mortgage held by The Fifth Third Bank of Columbus (the "Fee Mortgage"); and real estate taxes which are a lien for 1988 but not yet due and payable.

SI.03 Lessor's Warranty of Quiet Enjoyment. Subject to the terms and conditions of this Lease, Lessor covenants and agrees that Lessee, on paying the rent and other charges herein provided for and observing and keeping the covenants, conditions, and terms of this Lease on Lessee's part to be kept or performed, shall lawfully and quietly hold, occupy and enjoy the Leased Land during the term of this Lease without hindrance or molestation by Lessor or any person claiming under Lessor.

SI.04 Condition of Land. Lessor has made no representation or warranty, express or "Implied, with respect to the condition of the Leased Land or the fitness of the Leased Land for any particular use. Lessee acknowledges that it has fully investigated and is familiar with the size, dimensions, and physical condition of the Leased Land and is accepting the Leased Land "as is". Except as expressly described in this Lease, Lessor shall not be required to make any improvement, repair, alteration, or restoration of the Leased Land or in any manner maintain the Leased Land, and shall have no liability for any latent or patent defects in or condition of the Leased Land.

ARTICLE 2. LEASE TERM

S2.01 Lease Term. The term of this Lease (the "Lease Term") shall commence on the date of this Lease (the "Commencement Date") and end on September 14, 1998 (the "Expiration Date"), both dates inclusive. For purposes of this Lease, a "Lease Year" shall mean the initial period from the Commencement Date through September 30, 1989, and each 12-month period ending on September 30 thereafter, except for the final Lease Year which shall end on the Expiration Date.

S2.02 Right of First Refusal to Lease. If at the end of the Lease Term Lessor has decided in its discretion to continue to lease the Leased Land or any portion thereof, Lessee shall have a first right of refusal to lease the Leased Land, or such portion thereof, in accordance with this S2.02. In such event, Lessor shall give Lessee written notice of its desire to continue to lease the Leased Land at least 60 days prior to the Expiration Date. Lessee shall then have the right, for a period ending 30 days prior to the Expiration Date, to re-lease the Leased Land, or such portion thereof, from Lessor on such terms and conditions as Lessor and Lessee may agree, in their sole discretion. If Lessor does not give such notice to Lessee, or if Lessor and Lessee are unable to mutually agree upon terms and conditions for such continued lease for any reason by such date, then Lessee's right of first refusal shall terminate, the Lease Term shall end on the Expiration Date as set forth herein, and Lessor shall be free to lease, sell, or otherwise do with the Leased Land as it may elect in its sole discretion.

In the event the Lease is not extended or renewed at the end of the initial Lease Term, and if Lessee is not then in default, in consideration of the negative economic impact to Lessee from not getting further **use of its** improvements thereon, Lessor shall pay Lessee the "Termination Price" on the Expiration Date of the Lease pursuant to the Schedule attached hereto as Exhibit B.

S2.03 Holdover. If Lessee shall hold over after the Expiration Date--to the Lease Term, or any extension, such tenancy shall be from month to month on all the terms, covenants, and conditions of this Lease, terminable by

either party on 30-days notice to the other. In such event, the Termination Price shall not be due and payable until the date on which Lessee vacates and surrenders possession of the Leased Land.

S2.04 Lessor's Right To Terminate. Lessor shall have the right to terminate the Lease for any reason or no reason at any time during the Lease Term by giving Lessee written notice of Lessor's election to terminate the Lease at least six months prior to the Termination Date specified in Lessor's notice. In such event, at least 30 days prior to the stated termination date, Lessor shall deposit, as liquidated damages for the termination of Lessee's leasehold interest, the Termination Price, determined in accordance with the Schedule on Exhibit S, into an escrow account with the designated Escrow Agent (as defined below). In such event, Lessee shall vacate the Leased Land on or before the stated expiration date, in the condition required hereby, and upon receipt of the Termination Price by Lessee, Lessee shall automatically waive all claims and rights to receive any additional money, assets or damages from Lessor as a result of the termination of the Lease and such payment shall be full and complete compensation for Lessee's release of the leasehold interest.

Phillip L. Harmon, or his nominee, of 6649 North High Street, Worthington, Ohio 43085, or Baker & Hostetler, 65 East State Street, Columbus, Ohio 43215, or any other escrow agent selected by Lessor and reasonably acceptable to Lessee, shall serve as the designated escrow agent (the "Escrow Agent") in the event a termination notice is sent by Lessor. The Escrow Agent shall deposit the Termination Price in an interest bearing account or investment designated by Lessor and reasonably approved by Lessee, and all interest earned thereon shall be payable to Lessor. The Termination Price shall be completed and paid by the Escrow Agent to Lessee on the later of the Termination Date specified in Lessor's initial termination notice or the date of Lessee's actual vacation and surrender of the Leased Land in accordance with this provided that if Lessee has not so vacated and surrendered

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the Leased Land within 30 days after such Termination Date, the Termination Price and all interest thereon shall be returned to Lessor.

ARTICLE 3. RENT, TAXES AND UTILITIES

S3.01 Monthly Rent - Proration. Lessee shall pay to Lessor as rent for the Leased Land for each Lease Year during the Lease Term an annual rent equivalent to the lesser of Two Hundred Thousand Dollars (\$200,000) or fifteen percent (15%) of the annual logross revenues from the operation of the Project (as defined below).

The rent shall be computed and paid on a monthly basis for each calendar month of each Lease Year (based on the above-specified percentage of the "gross revenues" from the Leased Land for such calendar month) and, if the computation indicates that rent is due for that month, such rent shall be paid on or before the 15th day of the next successive calendar month.

For purposes of computing the rent hereunder, the term "gross revenues" shall mean all receipts by Lessee or agent or licensees, lessees or sublessees of Lessee from all businesses conducted on or from the Leased Land by Lessee or others, whether the receipts are in the form of cash, checks, charge accounts, credit, or other consideration, and shall include without limitation amounts received from the sale of goods and merchandise and for services performed on or from the Leased Land, together with the amount of all orders taken or received on the Leased Land, whether filled from the Leased Land or elsewhere, whether or not such sales be from inventory or other vending devices on the Leased Land; provided that "gross revenues" shall not include: (i) instruction fees received by teaching professionals, (ii) sales tax collected (provided that the amount thereof is added to the selling price or absorbed therein and paid by Lessee to the taxing authority), (iii) donated prizes and awards, and (iv) bona fide credits for returned merchandises. If one or more departments or divisions of Lessee's business is subleased by

Lessee or conducted by anyone other than Lessee, then "(gross revenues" shall include all receipts of such departments or divisions in the same manner as if the business of such departments or divisions had been conducted by Lessee itself. Each sale or charge upon credit or deferred installment payments shall be treated as a sale for the full price in the month during which the sale or charge is made, irrespective of whether or when Lessee receives payment therefor; provided that Lessee shall receive a subsequent credit against "gross revenues" for the amount of any account receivable which is actually not collected by Lessee despite its good faith, diligent efforts, at the later of the date on which such account is written off by Lessee or 120 days after its inception. No franchise, income, or similar tax based on income or profits shall be deducted from gross revenues in any event.

Within 15 days after the end of each quarter of each Lease Year and within 60 days after the end of each Lease Year during the term of this Lease, Lessee shall cause Lessor to receive financial statements for that period, showing in accurate detail satisfactory to Lessor the gross revenues from the Leased Land during that period and duly certified by an executive officer of Lessee, or by an independent certified public accountant of recognized standing, or by another person reasonably satisfactory to Lessor. The financial statements shall be in such form and contain such details, and the certification shall be in such scope and substance, as are reasonably satisfactory to Lessor. All such statements and other information provided to Lessor shall be reviewed and maintained by Lessor in a confidential manner. Lessee shall prepare, keep on the Leased Land, and make available to Lessor's representatives upon request, for a period not less than three years after the end of each Lease Year during the term of this Lease, adequate records showing inventories, receipts of merchandise at the Leased Land, and daily receipts from all sales and other transactions on or from the Leased Land by Lessee or others and income and sales tax returns relating to that Lease Year. The acceptance by Lessor of percentage rent payments shall be without prejudice to Lessor's right to verify the gross revenues from the Leased Land.

All payments to be made by Lessee to Lessor under this Lease shall be made in legal tender of the United States of America by normal business methods and shall be paid to Lessor at Lessor's address for receiving notices under S13.12, below.

Except as specifically provided in this Lease, this Lease is a net lease, and the rent shall be absolutely net to Lessor at all times during the term of this Lease, so that this Lease shall yield to Lessor the full amount of the rent throughout the term of this Lease and that all costs, expenses, taxes, charges, and other obligations of any character directly or indirectly relating to the Leased Land or the ownership, possession, use, occupation, operation, maintenance, repair, alteration, improvement, or replacement of the Leased Land which may arise or become due or payable during the term of this Lease shall be paid by Lessee, whether or not specifically described in this Lease. The rent shall be paid to Lessor when due and the other charges to be borne by Lessee under this Lease shall be paid when due, without notice or demand, and without any abatement, deduction, diminution, suspension, interruption, deferment, or reduction by reason of any claim, set-off, counterclaim, defense, or any other reason whatsoever.

Lessor shall have the right to audit Lessee's records upon providing Lessee at least five days advance written notice. If any such audits shows Lessee's statements and payments to Lessor to have been inaccurate to the extent that Lessee's stated gross revenues for any period were more than 3% lower than the actual gross revenues shown by such audit, then the cost of such audit shall be paid by Lessee, and Lessee shall immediately pay to Lessor the deficient rental amount due.

S3.02 Lessee To Pay Taxes. Lessee shall pay all real property taxes, special taxes, and assessments on the Leased Land and all improvements thereon which are allocable to the period of the Lease Term including any recoupment of tax savings based on County Agricultural Use valuation which may be assessed against the Leased Land due to Lessee's use or improvement thereof; provided that Lessee shall not be responsible for special improvement assessments levied or assessed upon the Leased Land which are specifically attributable to street, road, curb, sewer, fire hydrants, or lighting improvements resulting from Lessor's development of the Lessor's Other Land unless the Leased Land is directly benefitted by any such improvements. In the event Lessee is responsible for any such assessments, the amount of such assessments shall be paid or amortized over the longest period permissible by applicable law. Lessee shall promptly send Lessor copies of all tax duplicate bills, and paid receipts, to Lessor.

in the event that the Leased Land is not designated as a separate parcel for real estate tax purposes, Lessee shall pay its proportionate share of all installments of real estate taxes and

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on the larger tax parcel of which the Leased Land is a part, determined as follows:

(a) As to that portion of the taxes and assessments attributable to land value, Lessee shall pay the percentage of such portion determined by dividing the area of the land of the Leased Land by the total area of the larger tax parcel; and

(b) As to that portion of the taxes and assessments attributable to the value of the building, Lessee shall pay a percentage of such portion based upon the

specific assessment of the Project buildings, as compared to the buildings on the larger parcel, or

determined by such other equitable allocation method upon which Lessor and Lessee may agree.

Lessor shall notify Lessee in writing of the amount of any taxes and assessments which Lessee is required to pay under this section. Lessor's notification shall be delivered to Lessee at least 20 days prior to the due date of the tax bill for which it is given, if the Leased Land is not a separate tax parcel, it shall set forth the amount of taxes and assessments on the larger tract and the computation of Lessee's share.

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Lessee shall also pay all taxes or charges now or imposed with respect to any business conducted on the Leased Land or any improvements or personal property thereon or used in connection with the Leased Land or any such business.

For any fraction of a tax year at the beginning or end of the File Lease Term, or any extension, Lessee's obligation shall be prorated as of the commencement or end of the Lease Term, extension, and the party responsible for such period shall reimburse the other party, within 30 days after presentation, the responsible party of receipted copies of the bills of the same.

Lessee shall not be required to pay any franchise, inheritance, succession, capital levy, or transfer tax of or any income, excess profits, or revenue tax or any assessment, charge or levy upon the rent payable by Lessee, this Lease, and all such taxes, assessments, charges, and fees shall be payable by Lessor.

Lessee shall have the right to contest the amount or validity of any such tax payable by Lessee under this Lease, by appropriate legal proceedings. Lessor shall, upon request and subject to Lessor's approval, assist in any such proceedings if Lessee determines that it shall be necessary or convenient for Lessor to do so in order for Lessee to prosecute such proceedings properly. In the event of any such contest, Lessee shall take any actions as are reasonably requested by

Lessor to protect Lessor and the Leased Land against any liabilities or damages resulting therefrom.

53.02 Lessee to Pay Utility Charges. Lessee shall pay or cause to be paid when due all service charges for water, heat, gas, electricity, telephone, sewers (if any) and any and all other utilities used upon the Leased Land throughout the term of this Lease, including any connection fees.

ARTICLE 4. CJSE OF PREXISES

S4.01 Primary Use. Lessee shall use, the Leased Land for the development, construction and operation of the Project, and for no other use without Lessor's prior written approval. Lessee shall occupy and use the Leased Land only in a careful, safe, and proper manner and shall not commit or permit any waste of or on the Leased Land. Lessee shall not use or permit the use of the Leased Land or any portion thereof so as to be a nuisance to any of Lessor's Other Land.

S4.02 Compliance With Laws. Lessee shall promptly comply, or cause compliance with all laws, regulations, orders, and requirements of all federal, state, and local governments, courts, or other lawful authorities and all regulations and orders of the National Board of Fire Underwriters or other organization hereafter exercising similar functions, which now or at any time hereafter may apply to or affect the Leased Land or any business conducted on the Leased Land, whether present or future, foreseen or unforeseen, ordinary or extraordinary, and whether or not the same shall be within the present contemplation of Lessor or lessee or shall involve any change of governmental policy or require structural or extraordinary repairs, alterations, or additions, and irrespective of the cost thereof. Lessee shall obtain, maintain, and comply with all permits, licenses, and other authorizations required for any use then being made of the Leased Land.

S4.03 operation of Project. Lessee shall occupy the Leased Land and Project and open its Project for business fully fixtured, equipped, stacked, and staffed on or before the "Opening Date" defined in S5.01 below, and thereafter shall continuously so maintain the Project and conduct the business described in S4.01,

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above, in all of the space within the Project, on all business

days, except as described in this Section. Lessee shall in good faith keep its Project open for business with the public during the hours that similar type recreational facilities are customarily open for business, except to the extent that the Project must necessarily be closed on account of the order of any duly constituted public authority, or for the purpose of making repairs or improvements, or because of strikes, emergencies or other

causes beyond Lessee's control, including weather conditions, as long as Lessee makes all reasonable efforts to shorten such periods. This section is a material consideration to Lessor in order that Lessee might produce the maximum gross sales possible from the Project during the term of this Lease.

S4.04 Signs. Lessee shall have the right to erect and maintain signs on the Leased Land, provided that **all** such signs shall be in compliance with all applicable government regulations and shall be subject to Lessor's prior written consent, which shall not be unreasonably withheld.

ARTICLE 5. CONSTRUCTION BY LESSEE

S5.01 Lessee's Construction - General Conditions. Lessee shall construct the Project and related improvements on the Leased Land in accordance with drawings and specifications (the "Project Plans") hereafter to be prepared by Lessee and submitted to Lessor for approval, which approval **shall not be** unreasonably withheld by Lessor. Lessee shall administer **all** procedures relating to such construction and shall perform **all** other services which are necessary or appropriate to complete construction of the Project and related improvements in accordance with the approved Project Plans, specification, all applicable laws and governmental regulations and permits, and **all** requirements of the National Board of Fire Underwriters, on a high-quality basis under best trade practices, in turn-key and broom-clean condition, suitable for opening to the public and operation as a fully completed recreational facility.

Before commencement of such construction, Lessee shall take all necessary steps to procure the approval of the Project Plans by **all federal, state, municipal, and other** governmental authorities having jurisdiction in the matter and secure from any governmental authorities having jurisdiction thereover any permits or licenses which **may be necessary** in connection with such construction. After commencement of such construction, Lessee shall diligently prosecute such construction to full completion in good, careful, and workmanlike manner in accordance with (a) the Project Plans for their construction, and (b) **all** applicable laws, ordinances, regulations, and permits. In any event, Lessee shall commence construction of the Project within 30 days after the

"Contingency Date", weather permitting, and the Project shall be completed and open to the public for business on or before July 1, 1989 (the "Opening Date").

Lessee shall pay all costs of constructing the Project and related improvements in accordance with the approved Project Plans. If any lien shall be filed or claimed against the Leased Land or any interest therein in connection with or relating to such construction, Lessee forthwith shall cause the same to be discharged or otherwise secured to Lessor's complete satisfaction and, if Lessee fails to do so, Lessor may do so at its Option and Lessee shall reimburse Lessor upon demand for any and all costs and expenses of Lessor in doing so (including without limitation any costs of surety bonds, court costs, and reasonable attorneys' fees in discharging the lien).

Upon completion of such construction, the Project and related improvements shall remain the property of Lessee, until the termination of this Lease for any reason, including the abandonment of the Leased Land by Lessee, at which time any portion of the Project which is left on the Leased Land by Lessee shall become part of the Leased Land and shall be the property of Lessor, to the same extent as if it had been on the Leased Land on the date of this agreement.

S5.02 Alterations. After completion of construction of the Project and related improvements described in S5.01, above, no alteration, addition, improvement, or other change in or to the Leased Land or the Project (hereinafter collectively called an "alteration") shall **be made by Lessee** except under the following circumstances: (a) no alteration shall **be made** without first obtaining the prior written consent of Lessor to the specific alteration, which consent shall not be unreasonably withheld; (b) no alteration shall **be commenced** until **Lessee** has first obtained and paid for **all** required permits and authorizations of all governmental authorities having jurisdiction; (c) any alteration shall **be made** promptly and in good workmanlike manner and in compliance with **all** applicable permits, authorizations, building and zoning laws, and **all** other laws, ordinances, regulations, and requirements of **all** governmental authorities and in accordance with the requirements of the National Board of Fire Underwriters or other body **hereafter exercising** similar functions; (d) the cost of any such alteration shall be paid in cash or its equivalent, so that the **Leased Land shall at all times be** free of liens and claims for **work, labor,** or materials supplied or claimed to have **been** supplied to **the Leased Land** and, if Lessor at any time so requests, no alteration **shall** commence or proceed unless Lessee gives evidence satisfactory to Lessor that the same will be fully paid for upon completion; and (e) any alteration shall remain the property of **Lessee** until the termination of this Lease for any reason, including **Lessee's** abandonment of the Leased Land, at which time any such alterations which are left on the Leased Land

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by Lessee shall immediately become part of the Leased Land and shall be the property of Lessor, unless Lessor otherwise agrees in writing.

S5.03 Zoning. In the event that Lessee deems it necessary or appropriate to obtain use, zoning or subdivision and plan approvals and permits for the Leased Land, or any part thereof, Lessor shall, from time to time upon request of Lessee and subject to Lessor's approval, execute such documents, petitions, applications, and authorizations as may be appropriate or required and reasonably approved by Lessor to submit the Leased Land, or any part thereof, for the purposes of obtaining any such permits, zoning, rezoning, or approvals.

The Leased Land and the Project shall at all times be subject and subordinate to such deed restrictions as Lessor may from time to time impose upon the Leased Land for the control of the overall development of the Leased Land and the Lessor's Other Land, provided that such restrictions do not unreasonably interfere with Lessee's use of the Leased Land under this Lease. This subordination shall be automatic and self-operative, but Lessee shall upon request execute such documents as Lessor may deem necessary to accomplish same.

S5.04 Lessee's Ownership Of Improvements and Fixtures. It is expressly understood and agreed that any and all buildings, improvements, fixtures, machinery, and equipment of whatsoever nature at any time constructed, placed, or maintained upon any part of, on or in the Leased Land, including improvements to the land, **shall** be and remain the property of Lessee during the term of this Lease; provided that all buildings, improvements and fixtures comprising part of the Project which are left on the Leased Land upon termination of this Lease shall become part of the Leased Land and shall be Lessor's property upon the termination of this Lease **for any reason.**

Lessee shall have the right at any time during the Lease Term and at the end of the Lease Term to remove any and all buildings, improvements, **trade fixtures, machinery, equipment and other**

property owned or placed by Lessee, its sublessees or licensees, in, under, or up-on the Leased Land, provided that (a) during the Lease Term such property shall be replaced by Lessee so that Lessee can properly continue the operation of the Project throughout the Lease Term, and (b) upon Lessee's vacation of the Leased Land at the end of the Lease Term or any earlier termination of this Lease or abandonment by Lessee, Lessee shall leave the Leased Land, and any improvements left thereon by Lessee, in a neat, safe, secure and sanitary condition, so as to not constitute a nuisance or require any maintenance or correction by Lessor. Any property left upon the Leased Land more than 30 days after the Expiration Date or any earlier date of termination of this Lease

shall be deemed to be abandoned and thereafter shall become the property of Lessor.

ARTICLE 6. ENCUMBRANCE OF FEE AND LEASEHOLD ESTATE

§6.01 - Permitted Leasehold Mortgage. Lessee may, at any time or from time to time during the term of this Lease, grant a mortgage, collateral assignment, other security interest (a "leasehold mortgage") on Lessee's interest under this Lease and the leasehold estate hereby created for the purpose of constructing, improving, or operating the Project provided that (a) no Leasehold Mortgage shall be granted without Lessor's prior written approval, which shall not be unreasonably withheld, (b) no Leasehold Mortgage shall be granted other than to a reputable financial institution or other lender reasonably approved by Lessor (a "Leasehold Lender") , and (c) no Leasehold Mortgage shall at any time secure an amount greater than the amount of Lessor's Termination Price under S2.04 from time to time.

§6.02 Mortgage of Fee. This Lease and Lessee's rights hereunder shall be subject and subordinate to any mortgages upon the Leased Land heretofore or hereafter executed and delivered as security for any bona fide loan made to Lessor by any lending institution from time to time. The subordination of this Lease and Lessee's rights hereunder shall be automatic and self-operative, and no separate instrument of subordination shall be necessary. However, if and to the extent requested by the holder of any such mortgage, Lessee shall execute, acknowledge or verify, and deliver any and all instruments that may be requested by such holder from time to time to permit or expedite disbursement to Lessor of the proceeds of such loan, provided that Lessee shall have no personal liability for payment of such loan. Prior to the Contingency Date, Lessor shall use its best efforts to obtain from the holder of any such mortgage a non-disturbance agreement providing in form and substance satisfactory to such holder, for continuation of Lessee's rights under this Lease in the event of any default under any such mortgage, as long as Lessee performs and observes all obligations and conditions to be performed and observed under this agreement.

ARTICLE 7. REPAIRS AND RESTORATION

§7.01 Maintenance. Lessee, at Lessee's own cost and expense, **at all times throughout** the term of the Lease, shall keep and

maintains or cause to be kept and maintained, the Leased Land and the Project, including all buildings and improvements which may be erected thereon, in a good state of appearance, repair, safety and cleanliness, reasonable wear and tear excepted, and Lessee shall promptly make all repairs or restorations necessary or appropriate to so maintain the Leased Land and the Project.

57.02 Damage or Destruction. In the event of any damage to or destruction of and other improvements constructed on the Leased Land or any part thereof, Lessee shall promptly give notice thereof to Lessor generally describing the nature and extent of such damage or destruction, and shall make proof of loss to the appropriate insurance companies insuring the Project.

in the event of any damage or destruction to the Project or other improvements made by Lessee, except as provided in the following paragraph: (a) this Lease shall not terminate; (b) Lessee shall at its cost promptly restore the Project and other improvements constructed by Lessee thereon to the value, condition and character thereof existing immediately prior to the date of the damage or destruction to the Project; and (c) the Net Proceeds (as defined in the last paragraph of this section) shall be applied in the following order: (i) first to the cost of restoration of the Project and other improvements, and (ii) the balance, if any, to Lessee.

In the event that during the last two years of the term of this Lease the Project or other improvements made by Lessee are destroyed or damaged by fire or other casualty to an extent that the cost of repair thereof is estimated to be greater than 50% of the then replacement value thereof, Lessee may at its option elect not to restore same by written notice to Lessor within 30 days after the date of such destruction or casualty. If Lessee so elects, Lessee shall either: (a) first demolish the Project and improvements and return the Leased Land to their condition on the date of this Lease, using the Net Proceeds for such purpose, or (b) provided that the Net Proceeds are sufficient for the purpose described in (a), pay or assign to Lessor all Net Proceeds relating to such destruction. Upon Lessee's compliance with (a) or (b) under this paragraph, this Lease shall terminate.

For purposes of this section, the term "Net Proceeds" shall mean the gross insurance proceeds received as a result of any damage or destruction less the payment of all expenses, including reasonable attorneys' fees and expenses, incurred by Lessor or Lessee in connection with the collection of such gross proceeds.

ARTICLE 8. NECELANIC'S LIENS

S8.01 Prohibition Of Liens On Fee Or Leasehold Interest. Lessee shall not suffer or permit any mechanic's liens or other liens to be filed against the fee of the Leased Land nor against Lessee's leasehold interest in the land nor any buildings or improvements on the Leased Land by reason of any work, labor, services, or materials supplied or claimed to have been supplied

to Lessee or any one holding the Leased Land or any part thereof through or under Lessee.

Notwithstanding the above provision of this section, if any such mechanic's liens or materialman's lien shall be recorded against the Leased Land or any improvements thereon, and if Lessee in good faith desires to contest the same, Lessee shall have the right to do so, provided that in such case Lessee shall (a) indemnify and save Lessor harmless from all liability for damages occasioned thereby, (b) cause such lien to be bonded off or otherwise provide Lessor with such protection of its interest as Lessor may reasonably request, and

(c) in the event of a judgment of foreclosure upon said mechanic's lien, cause the same to be discharged and removed prior to the execution of such judgment.

ARTICLE 9. CONDEMNATION

59.01 General. In the event the Leased Land or any part thereof shall be taken for public purposes by condemnation as a result of any action or proceeding in eminent domain, or shall be transferred in lieu of condemnation to any authority entitled to exercise the power of eminent domain, the interests of Lessor and Lessee in the award or consideration for such transfer and the effect of the taking or transfer upon the Lease shall be as provided by this Article. **Lessor and Lessee agree** to cooperate in the defense of the property and to sign such documents as are reasonably necessary to conclude any such proceeding.

S9.02 Total or Partial Taking - Termination. In the event the whose eminent domain of the Leased Land is taken under the power of eminent domain or conveyed under threat of condemnation proceedings, or if only a part of the Leased Land is so taken or conveyed in a manner (including, for example, the loss of access to adjacent rights-of-way or the loss of a substantial portion of the Project or improvements thereon) that the remaining part of the Leased Land would be materially unsuitable for use by Lessee, then in either event: (a) this Lease shall terminate effective as of the date Lessee is required to give up the right to occupy or use such part of the Leased Land; and (b) the Net Proceeds (as defined in S9.04), shall be applied in the following order: (i) first, to the Lessor, to the extent of the appraised fair market value of the Leased Land as of the date of such total or partial taking or conveyance determined without regard to this Lease or the Project or any other improvements made by Lessee thereon; and (ii) the balance, if any, to Lessee. The termination of this Lease as provided herein shall not operate to deprive Lessee of the right to make claim against the condemning authority for any damages suffered by Lessee.

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S9.03 Partial Taking - Continuation of Lease. In the event of a partial taking or conveyance under a power of eminent domain or threat of condemnation proceedings which does not render the remaining part of the Leased Land materially unsuitable for Lessee's use: (a) this Lease shall not terminate nor shall the rent be abated; (b) Lessee shall at its cost restore the Leased Land and the Project and other improvements thereon to first-class condition; and (c) the Net Proceeds shall be applied in the following order: (i) first, to the restoration of the Leased Land and the Project and other improvements thereon to first-class condition; (ii) next, to Lessor, to the extent of the appraised fair market value of the portion of the Leased Land taken or conveyed as of the date of such partial taking or conveyance determined without regard to this Lease or the Project or any other improvements made by Lessee thereon; and (iii) the balance, if any, to Lessee.

S9.04 Net Proceeds. For purposes of this Article, the term "Net Proceeds" shall mean the gross proceeds received from any eminent domain or condemnation award and the gross proceeds from any conveyance under threat of condemnation, less the payment of all expenses, including reasonable attorneys' fees and expenses, incurred in connection with the collection of such gross proceeds. For purposes of this Article, any negotiated sale to a public or quasi-public authority under threat of condemnation shall be deemed to constitute a taking by such public or quasipublic authority under the power of eminent domain.

ARTICLE 10. ASSIGNMENT AND SUBLEASE

SIO.01 Lessee's Right to Assign. Lessee shall not have the right to assign, convey, or transfer Lessee's interest in this Lease and the leasehold **estate** created hereby, except with the prior written consent of **Lessor** to such assignment, which Lessor shall not unreasonably withhold provided that the **assignee** hereunder is of **at least equal** financial strength and capability as that of the assignor.

SIO.02 **Lessee's Right To Sublease**. Lessee shall not have the right to **sublease all** or any portion of the **Leased** Land during the term of this **Lease**, **except** with the prior written consent of Lessor. In **any event**, the term of any such sublease shall not **extend beyond the term** of the **Lease** and **any** such **sublease** shall be subject to **all of the** terms and provisions of this Lease. In addition, no **assignment or sublease shall release Lessee** from any of its obligations **hereunder**.

SIO.03 Lessor's Option to Retain Sublease. In the event of the termination of **this Lease** for any **cause** whatsoever (including **the voluntary surrender thereof by Lessee**), and while any such sublease is in full force and effect, at Lessor's sole

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option, such termination shall not act as a merger, and Lessee's interest as a sublessor in each of said subleases shall be deemed automatically assigned, transferred, and conveyed to the owner of Lessor's interest; and, for and after such termination each of the sublessees shall be deemed thereupon (and without further act) to have attained to the holder of Lessor's interest in the Lease. if Lessor does not so elect to retain any such sublease, such sublease shall terminate upon termination hereof.

SIO.04 Estoppel Certificates. Either party shall at any time and from time to time, upon not less than 10 days prior written requests by the other party, execute, acknowledge, and deliver to such party a statement in writing certifying that the Lease is unmodified and in full force and effect (or if there has been any modification thereof that the same is in full force and effect as modified and stating the modification or modifications and that there are no defaults existing, or if there is any claimed default stating the nature and extent thereof); and stating the dates to which the rent and other charges have been paid in advance. it is expressly understood and agreed that any such statement delivered pursuant to this section may be relied upon by any prospective assignee or sublessee of the leasehold estate of Lessee, or any prospective purchaser of the estate of Lessor, or any Leasehold or other Lender on the security of the Leased Land or the fee estate or any part thereof, and any third person.

ARTICLE 11. DEFAULT AND REMEDIES

S11.01 Prohibition of Involuntary Assignment; Effect of Bankruptcy or Insolvency. Neither this Lease nor the leasehold estate of Lessee, nor any interest of Lessee hereunder in the Leased Land, the Project and related other improvements, shall be subject to involuntary assignment, transfer or sale by operation of law in any manner whatsoever, and any such attempt at involuntary assignment, transfer or sale shall be void and of no effect.

Without limiting the generality of the provisions of the proceeding paragraph, Lessee agrees that:

- (a) in the event any proceedings under federal bankruptcy law shall be commenced by or against Lessee and if commenced against Lessee, shall not be dismissed within 60 days; or
- (b) in the event Lessee becomes insolvent or makes an assignment for the benefit of its creditors; or
- (c) if a receiver is appointed in any proceeding or action to which Lessee is a party with authority to take possession or control of all or any part of the

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Leased Land or the business conducted thereon by Lessee, and such receiver is not discharged within a period of 60 days after his appointment; or

- (d) any involuntary assignment prohibited by the provisions of the preceding paragraph shall occur;

then such event or occurrence shall be deemed to constitute a breach of this Lease by Lessee and shall, at the election of Lessor, without notice of entry or other action of Lessor, terminate this Lease and also all right of Lessee under this Lease and in and to the Leased Land and also all rights of any and all persons claiming under Lessee.

If following the filing of a petition by or against Lessee in a bankruptcy court, Lessor shall not be permitted to terminate this Lease as hereinabove provided because of the provisions of Title 11 of the United States Code relating to Bankruptcy, as amended (the "Bankruptcy Code"), then Lessee (including Lessee as Debtor-in-Possession) or any trustee for Lessee, agrees to promptly, but not later than 15 days after petition by Lessor to the bankruptcy court, assume or reject this Lease, and Lessee agrees not to seek or request any extension or adjournment of any petition to assume or reject this Lease by Lessor with such court. Lessee's, or the trustee's, failure to assume this Lease within said 15 day period shall be deemed a rejection. Lessor shall thereupon immediately be entitled to possession of the Leased Land without further obligation to Lessee or the trustee, and this Lease shall be terminated, except that Lessor's right to damages for Lessee's default shall survive such termination. Lessee or any trustee for Lessee may only assume this Lease if (a) it cures or provides adequate assurance that the trustee will promptly cure any default hereunder, (b) it compensates or provides adequate assurance that the Lessee will promptly compensate Lessor for any actual pecuniary loss to Lessor resulting from Lessee's default, and (c) it provides adequate assurance of future performance under this Lease by Lessor. In no event after the assumption of this Lease by Lessee or any trustee for Lessee shall any then existing default remain uncured for a period in excess of 10 days. Adequate assurance of future performance of this Lease shall include, without limitation, adequate assurance (i) of the source of rent required to be paid by Lessee hereunder, and (ii) that assumption or permitted assignment of this, Lease will not breach any provision hereunder.

Sil.01 Default. If Lessee fails to make any payment of rent or any other payment within 15 days after the date on which such payment is due under this Lease (except that not more often than twice during any Lease Year Lessee's failure to make a payment of rent within such time shall not constitute a default hereunder until Lessor has given Lessee written notice of such non-payment and Lessee has failed to make such payment within 15

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days after Lessor's notice); or if Lessee fails to perform or observe any other obligations or conditions to be performed or observed by Lessee under this Lease, and if Lessee fails to correct any such default within 30 days after receiving notice therefrom, or if by reason of the nature thereof Lessee cannot correct such failure within such 30-day period, Lessee fails to commence within such 30-day period and proceed diligently to correct such failure as promptly as circumstances permit; or if Lessee abandons or vacates the Leased Land; or if Lessee fails to pay to Lessor at least \$20,000 in rent under this Lease for any Lease Year during the Lease Term, other than the first Lease Year, and fails to correct such default within 15 days after written notice thereof from Lessor to Lessee; then and in any such event, at the option of Lessor, Lessor shall have the right immediately to re-enter and take possession of the Leased Land and, as it elects, either: (a) declare this Lease to be terminated, in which event this Lease and all rights and obligations of both parties hereunder shall immediately cease and terminate and Lessor shall possess and enjoy the Leased Land as though this Lease had never been made, without prejudice, however, to any and all rights of action theretofore accruing against Lessee for rent, damages, or breach of contract, or (b) re-let the Leased Land for such terms and on such conditions as Lessor determines, for and on behalf of Lessee, at the highest rental reasonably obtainable in the judgment of Lessor which reletting shall not be considered as a surrender or acceptance of the Leased Land or a termination of this Lease, and recover from Lessee any deficiency between the amount of rent and all other charges payable by Lessee under this Lease and the amount collected by Lessor upon any such reletting.

The provisions of this section shall be cumulative in nature, and nothing contained in this section shall in any manner curtail, supplant, abridge, or otherwise affect adversely any right, recourse, or remedy which otherwise would be available to Lessor at law or in equity.

Sil.03 Right to Cure Defaults. If Lessee fails to perform and observe all obligations and conditions to be performed and observed by it under this lease, then Lessor may but shall not be obligated to cause the performance and observance of the obligation or condition to which the default relates, and any and all costs and expenses incurred by Lessor in connection therewith, including without limitation reasonable attorney's fees, shall thereupon be due and payable immediately from Lessee to Lessor, with interest thereon from the time such costs and expenses were paid by Lessor until Lessor is reimbursed in full by Lessee at a rate equal to 125% of the prime commercial rate from time to time of Bank One, Columbus, N.A., and the same shall be deemed additional rent hereunder to be paid by Lessee to Lessor.

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S I I . 0 4 Indemnification of Lessor. Lessor shall not be
 liable for any injury, death or damage to persons or

property, which at any time may be suffered or sustained by Lessee, or by any persons who may at any time be using or occupying or visiting the Leased Land or the Project, or may be in, on or about the same, whether such loss, injury, death or damage shall be caused by or in any way result from or arise out of any act, omission, or negligence of Lessee, or of any occupant, subtenant, visitor or user of any portion of the Leased Land or the Project, or any other person, and Lessee shall indemnify, hold harmless and defend Lessor from and against all claims, liability loss or damage whatsoever, including, without limitation, attorneys' fees, on account of any such loss, injury, death or damage. In addition, Lessee shall indemnify, hold harmless and defend Lessor from any claims and liabilities arising from Lessee's failure to perform any of its obligations hereunder. Lessee hereby waives all claims against Lessor for damages to the Project and improvements that are now on or are hereafter placed or built on the Leased Land and to the property of Lessee in, on, or about the Leased Land or the Project, from any cause arising at any time. Lessee agrees that Lessor shall in no way be liable or responsible for any loss or damage of any nature that may be sustained or incurred by any partner in Lessee by reason of his or its invest-

ment in Lessee or in the Project, or his ownership of any interest in Lessee or the Project.

ARTICLE 12. TERMINATION AND SURRENDER

S12.01 Lessee's Right of Termination On Notice. Lessee may terminate the **Lease** at any time during the Lease Term, or any extension thereof, by giving Lessor at least 90 days prior written notice of Lessee's intention to do so, on the express condition that Lessee shall deliver possession of the Leased Land to Lessor, with any portion of the Project and **related** improvements left thereon by **Lessee** being in a **neat, safe**, secure, and sanitary condition, so as to not constitute a nuisance or require any maintenance or correction by Lessor.

S12.02 Surrender. Unless otherwise mutually agreed by the parties, **Lessee** shall not be required to redeliver possession of the **Leased Land** to **Lessor** in substantially the same condition that existed **immediately** prior to **Lessee's** entry on the Leased Land. **All buildings, improvements, trade fixtures, equipment and other property remaining** upon the **Leased Land** after 30 days shall be **deemed to be abandoned** and **shall become** the property of Lessor. Upon **Lessee's surrender of the Leased Land**, **Lessee** shall **leave** the Leased Land and **all** improvements **left** thereon in the condition required by this **Lease**, including pursuant to **S12.01**, above.

ARTICLE 13. GENERAL PROVISIONS

S13-01 Conditions and Covenants. All of the provisions of the Lease shall be deemed as running with the land, and construed to be "conditions" as well as "covenants" as though the words specifically expressing or imparting covenants and conditions were used in each separate provision.

S13-02 No Waiver of Breach. No failure by either Lessor or Lessee to insist upon the strict performance by the other of any covenant, agreement, term, or condition of the Lease or to exercise any right or remedy consequent upon a breach thereof shall constitute a waiver of any such breach or of such Covenant, agreement, term or condition. No waiver of any breach shall affect or alter this Lease, but each and every covenant, condition, agreement, and term of the Lease shall continue in full force and effect with respect to any other then existing or subsequent breach.

S13.03 Time of Essence. Time is of the essence of this Lease, and of each provision.

S13.04 Computation of Time. The time in which any act 5---

provided by the Lease is to be done is computed by excluding the first day and including the last, unless the last day is a Saturday, Sunday, or legal holiday, and then it is also excluded.

S13.05 Successors In Interest. Each and all of the covenants, conditions, and restrictions in the Lease shall inure to the benefit of and shall be binding upon the successors in interest of Lessor, and subject to the restrictions of this Lease, the authorized encumbrances, assignees, transferees, subtenants, licensees, and other successors in interest of Lessee.

S13.06 Entire Agreement. The Lease contains the entire agreement of the parties with respect to the matters covered by the Lease, and no other agreement, statement, or promises made by any party, or to any employee, officer, or agent of any party, which is not contained in the Lease shall be binding or valid.

S13.07 Partial Invalidity. If any term, covenant, condition, provision of the Lease is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions shall remain in full force and effect and shall in no way be affected, impaired, or invalidated.

S13.08 Relationship of Parties. Nothing contained in the Lease shall be deemed or construed by the parties or by any third person to create the relationship of principal and agent or of partnership or of joint venture or of any association between Lessor and Lessee, and neither the method of computation of rent nor any other provisions contained in the Lease nor any acts of

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the parties shall be deemed to create any relationship between Lessor and Lessee, other than the relationship of Lessor and Lessee.

S13.09 Interpretation and Definitions. The language in all parts of the Lease shall in all cases be simply construed according to its fair meaning and not strictly for or against Lessor or

Lessee. Unless otherwise provided in the Lease, or unless the context otherwise requires, the following definitions and rules of construction shall apply to the Lease:

(a) Number and Gender. in the Lease, the neuter gender includes the feminine and masculine, and the singular number includes the plural, and the word "person" includes corporation, partnership, firm, or association wherever the context so requires.

(b) mandatory and Permissive. "Shall," "will,-,

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and "agrees" **are** mandatory; may is permissive.

(c) Captions. Captions of the articles, sections, and paragraphs of the **Lease** **are** for convenience and reference only, and the words contained therein shall in no way **be** held to explain, modify, amplify, or aid in the interpretation, construction, or meaning of the provisions of the **Lease**.

(d) Term include Extensions. **All** references to the term of the **Lelse** or the **Lease** Term **shall** include any extensions **of** such Term.

(e) Parties. Parties shall include the Lessor and Lessee named in the **Lease**.

(f) **Sublessee.. As used** herein, the word "sublessee" **shall mean and** include in addition to **a sublessee and subtenant, a licensee, concessionaire, or other** occupant or **user of any** portion of the **Leased Land** or Project or **any improvements** thereon.

S13.10 Attorney's Fees. in the event either Lessor or Lessee shall bring **any** action or **proceeding for damages** for an **alleged breach** of **any** provision of **the Lease**, to enforce, protect, or **establish any** right or **remedy, the prevailing party shall be** entitled to **recover** from **the other as a part** of such action or **proceedings** **reasonable attorney's fees and** court costs.

S13.11 Modification. The **Lease is** not subject to modification **except** in writing.

S13.12 Notices. Any notice or **request** required or desired to be given to **ivith@er@party** shall **be** in writing and **shall be**

deemed given when deposited in the United States mail, postage prepaid, addressed to that party at that party's first-class address set forth at the beginning of this Lease or at such other address as that party may theretofore have designated in notice to the party giving notice.

S13.13 . Broker's Commission. Each of the parties represents and warrants to the other that there are no claims for broker's commissions or finder's fees in connection with the execution of this Lease, and each of the parties agrees to indemnify the other

against all liabilities arising from any such claim as a result of the actions of the indemnifying party.

S13.14 Lessor's Access. Lessor and its designees shall have the right to enter the Project at any reasonable times for the purposes of inspecting the Project, performing any work which Lessor elects to undertake hereunder, and exhibiting the Leased Land for sale, lease, or mortgage. Nothing herein shall imply any duty upon Lessor to do any such work which under any provision of this Lease Lessee is required to perform, and the performance thereof by Lessor shall not constitute a waiver of Lessee's default.

ARTICLE 14. RIGHT OF FIRST REFUSAL

S14.01 Right of First Refusal. During the term of this Lease or any extension thereof, if **Lessor** receives an offer to purchase any or all of the **Leased Land** on terms and conditions acceptable to Lessor (which offer may include within the description of the property to be purchased portions of Lessor's Other Land adjoining the Leased Land), Lessor shall send a complete copy of such offer to Lessee, and Lessee shall then have the right of first refusal, for a period of 30 days after Lessee's receipt of

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such offer, to purchase the Leased Land and any described portions of Lessor's Other Land (collectively, the "Offer Land") from Lessor on the **same** terms and conditions as set forth in such offer. Lessee shall exercise its right, if at **all**, by giving written notice to Lessor within such 30-day period, stating that it thereby **exercises** its right of first refusal, in which case Lessee shall then **be** bound to purchase the Offer Land on such terms and conditions. If **Lessee** does not notify Lessor in writing of its election to purchase the Offer Land on such terms and conditions within such 30-day period, Lessee shall be deemed to have waived its right of first refusal and Lessor shall have the unrestricted right to **sell** the **Offer Land** pursuant to such offer, provided that the closing occurs within 12 months after the expiration of such 30-day period. The grantee at any such sale shall acquire title to the Offer Land subject to this Lease, unless Lessee otherwise agrees.

ARTICLE 15. NONCOMPETITION CLAUSE

S15.01 Noncompetition. Lessor agrees not to operate or permit the operation of a golf driving range, softball diamond, putting and chipping greens, miniature golf course, or shop on the Leased Land for a period of three years after the Lease is terminated or expires without Lessee's advance written consent; except that this provision shall not apply if the termination of this Lease is the result of a default by Lessee.

**ARTICLE 16. EXECUTION, RECORDING AND
INCORPORATION BY REFERENCE.**

S16.01 Recording. Upon request of either party, both parties shall execute, acknowledge, and record a memorandum of this Lease. Following any such recording, the memorandum shall be attached to the Lease.

S16.02 Counterparts. This Lease has been executed by the parties in several counterparts, each of which shall be deemed to be an original copy.

S16.03 Exhibits. All exhibits referred to in this Lease and attached hereto are hereby made a part of this Lease.

S16.04 Execution. This Lease has been executed by Lessor and Lessee on the date set forth at the beginning hereof.

LESSEE:

Signature acknowledged in ABLES GOLF CENTER LIMITED PARTNERSHIP

**By C.C. Entertainment, Inc. Its
General Partner**

by W.H. Ables, Jr., President

LESSOR:

Signature acknowledged in N. 0 PARTNERSHIP
in presence of:

By KEW

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by_

Robert L. Ables, Jr.,
General Partner

(Acknowledgements on following page]

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STATE OF OHIO

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COEJNTY

This instrument was acknowledged before me on October 1988 by **W.H. Ables, Jr.**, the president of c.c. Entertainment,

Inc., an Ohio corporation which is the general partner in Ables Golf Center Limited Partnership, an Ohio limited partnership, on

behalf of the corporation and the partnership-

Notar

PHILLIP L HARMON, Attorney
At Law

STATE OF OHIO

NOTARY PUBLIC, STATE OF OHIO

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CORJNTY

This instrument was acknowledged before me on October 1988, by Robert C. Echele, a general partner in KEW Investment Company, an Ohio general partnership which is the general partner

in N.P. Limited Partnership, an Ohio limited partnership, on behalf of the partnerships.

PHILLIP L HARMON, Attorney At Law

NOTARY PUBLIC, STATE OF OHIO

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Exhibit A

Description of Leased Land

TRACT TO BE LEASED BY ABLES GOLF CENTER LIMITED PARTNERSHIP ASSOCIATION FROM N.P. LIMITED PARTNERSHIP:

Situated in the State of Ohio, County of Delaware, and in the Township of Orange, and being more particularly described as follows:

Commencing at a point at the intersection of Delaware County Road 10, also known as Old State Road, and Lazelle Road at Franklin County Monument Box 4450; thence along the centerline of Lazelle Road South 850 18' 00" East a distance of 2835.10 feet to Franklin County Monument Box 2226; thence continuing along said centerline South 850 31' 20" East a distance of 2059.11 feet to a railroad spike and true place of beginning; thence leaving said centerline North 041 08' 22" East a distance of 1340.00 feet to a point and passing an iron pin at 30.00 feet; thence North 850 31' 20" West a distance of 1300.00 feet to a point thence South 040 08' 22" West a distance of 1340.00 feet to a point in the centerline of Lazelle Road thence along the centerline of Lazelle Road South 850 31' 20" East a distance of 1300.00 feet to the true place of beginning and containing 39.99 Acres.

The above tract subject to all recorded right-of-way and prior easements.

The above description prepared by Dwight D. Stuckey, Registered Surveyor 4992.

MME: With respect to the foregoing legal description of the Leased Land, Lessor and Lessee agree that Lessor shall have the right from time to time during the term of the Lease to redefine the west and north boundary lines of the Leased Land for survey purpose only so as to assure the compatibility of legal descriptions between the Leased Land and Lessor's adjoining property; provided, however, that no such redefinition shall alter the dimensions of the Leased Land or impact Lessee's use thereof.

Exhibit B

TERMINATION PRICE SCHEDULE

in the event that either (a) the Lease is terminated by Lessor prior to the Expiration Date (as defined in S2.01) pursuant to Lessor's termination option under S2.04, or (ii) the Lease Term expires on the Expiration Date according to its terms and with Lessee not then being in default under the Lease, or (iii) the Leased Land is sold to a third-party purchaser where Such sale is not made subject to the Lease and Lessee vacates the Leased Land upon the closing thereof, Lessor shall pay to Lessee, upon Lessee's vacating and surrendering possession of the Leased Land and Project in accordance with the Lease, an amount (the "Termination Price") determined according to the following schedule:

At			9-15-88:	100%	of	"Initial	Investmen
From	9-15-88	through	9-14-89:	100%	of	"Initial	Investmen
From	9-15-89	through	9-14-90:	95%	of	"Initial	Investmen
From	9-15-90	through	9-14-91:	90%	of	"Initial	Investmen
From	9-15-91	through	9-14-92:	85%	of	"Initial	Investmen
From	9-15-92	through	9-14-93:	80%	of	"Initial	Investmen
From	9-15-93	through	9-14-94:	75%	of	"Initial	Investmen
From	9-15-94	through	9-14-95:	65%	of	"Initial	Investmen
From	9-15-95	through	9-14-96:	55%	of	"Initial	Investmen
From	9-15-96	through	9-14-97:	45%	of	"Initial	Investmen
From	9-15-97	through	9-14-98:	35%	of	"Initial	Investmeri
From	9-15-98	through	9-14-99:	25%	of	"Initial	Investmeri
From	9-15-99	through	9-14-00:	15%	of	"Initial	Investmen
From	9-15-00	through	9-14-01:	5%	of	"Initial	Investmen

After 9-15-01 0% of "Initial Investment

The "Initial Investment" shall mean the actual amount of Lessee's initial investment in the Project, including the ordinary and reasonable cost of all buildings and improvements constructed on the Lease Land and all furniture, fixtures, equipment and other personnel property acquired by Lessee for use thereon, and all ordinary and reasonable organizational and start-up expenses incurred by Lessee in connection with , the Project (but not including any fees paid to Lessee or any affiliate of Lessee), all as reasonably approved by Lessor. The Initial Investment shall not include any working capital or any expensable cost items after the Lessee's initial start-up expenses. Up-on completion of the Project improvements, Lessee shall submit to Lessor a written statement of its determination of the initial Investment amount, broken down into individual components each of which shall be supported by such evidence as Lessor shall reasonably require. Upon Lessor's approval of the amounts shown on such statement, Lessor and Lessee shall execute such statement to confirm it as the Initial Investment amount. Lessee has represented to Lessor

ANMNDIVENT OF LEASE

THIS AivMNDi'vMNT OF LEASE ("**Amendment**"), is made as of this day of November, 1999, by and betweenhlP.,Llln,'J@@W a having an address at ("**Landlord**") and a **Flor-iloL** Corpor-oA-%an having an address at Fl. (**Aelv@1(c** N 4 II 47 ("**Tenant**"). 5S8 13,

BACKGROUND

6'5 av4cnded
A. as of hereas, Landlord and Tenant entered into a certain lease, dated

61 tqg@((the "**Lease**") pursuant to which Landlord leased to Tenant prenuses located at -:@io Llze((,e kd cAm5k"(,;, I @e , 0 t4

(the "**Demised** Premises").

B. Whereas, Landlord and Tenant wish to amend the Lease in the manner hereinafter set forth.

NOW, TBEREFOR, in consideration of the mutual covenants and conditions herein set forth and for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, intending to be legally bound, hereby agree that the Lease shall be

amended by the addition of the following paragraphs which shall supersede any provisions of the Lease to the contrary:

1. Leasehold Mortgages. Tenant and every successor and assignee of Tenant (but not subtenant) is hereby given the right by Landlord in addition to any other rights herein granted, without Landlord's prior written consent, to mortgage its interest in the Lease, under one or more leasehold mortgages and/or under one or more purchase money leasehold mortgages in connection with any sale of such interest, and assign the Lease, or any part or parts thereof, as collateral security for such leasehold mortgages, upon the condition that all rights acquired under such leasehold mortgages shall be subject to all of the provisions of the Lease, and to all rights and interests of Landlord therein. If Tenant and/or Tenant's successors and assignees shall mortgage the Lease, or any part or parts thereof, and if the holder of any of such leasehold mortgages shall send to Landlord a true copy of such holder's mortgage, together with written notice specifying the name and address of the mortgagee and the pertinent recording data with respect to such mortgage, Landlord agrees that so long as such leasehold mortgage shall remain unsatisfied of record or until written notice of satisfaction is given by the holder to Landlord, the following provisions shall apply (in respect of such mortgage and of any other mortgages which also comply with the above):

- (a) There shall be no cancellation, surrender or material modification of the Lease by joint action of Landlord and Tenant without the prior consent in writing of the

EXHIBIT B

leasehold mortgagee and no such cancellation, surrender or material modification shall be effective without such prior written consent.

- (b) Landlord shall, upon serving Tenant with any notice of default, simultaneously serve a copy of such notice upon the holder of such leasehold mortgage, and no such notice of default shall be deemed effective or duly given for purposes of the Lease unless a copy thereof is simultaneously served upon such holder and sets forth the information required by the last sentence of this subsection. The leasehold mortgagee shall thereupon have the same period, after service of such notice upon it, to remedy or cause to be remedied the defaults complained of as Tenant has hereunder for such default, and Landlord shall accept such performance by or at the instigation of such leasehold mortgagee as if the same had been done by Tenant. Each notice of default given by Landlord will state the amounts of whatever rent, additional rent and other payments therein provided for are then in default.
- (c) Anything herein contained to the contrary notwithstanding, if any default shall occur which, pursuant to any provision of the Lease, entitles Landlord to terminate the Lease, and if before the expiration of the fifteenth (15th) day following the date such leasehold mortgagee shall receive Landlord's notice terminating the Lease, such leasehold mortgagee or its nominee or designee shall have paid to Landlord all rent,

additional rent and other payments provided for in the Lease and then in default (except any payment due in respect of accelerated rent or liquidated damages), and shall have notified Landlord that such leasehold mortgagee agrees to comply or to commence the work of complying with all of the other requirements of the Lease, if any are then in default, and shall prosecute the same to completion with reasonable diligence, then in such event Landlord shall not be entitled to terminate the Lease and any notice of termination theretofore given shall be void and of no effect.

- (d) If Landlord shall elect to terminate the Lease by reason of any default of Tenant, the leasehold mortgagee or its nominee or designee shall not only have the right to nullify any notice of termination by agreeing to cure such default as aforesaid, but shall also have the separate right to postpone and extend the specified date for the termination of the Lease as fixed by Landlord in its notice of termination, for a period of not more than 30 days, provided that such leasehold mortgagee shall within said 30 days cure or cause to be cured any then existing monetary defaults (except any payment due in respect of -accelerated rent or liquidated damages) and prosecute with reasonable diligence the curing of any other defaults which are reasonably susceptible of being cured by the leasehold mortgagee prior to its acquisition or sale of Tenant's interest herein and meanwhile pay or cause to be paid all rents and additional rent as and when the same become due, and provided further that the leasehold mortgagee or its nominee or designee shall forthwith take

steps to acquire or sell Tenant's interest in the Lease by foreclosure leasehold mortgage or otherwise and shall prosecute the same to reasonable diligence. If at the end of said 30-day period the leasehold m., or its nominee or designee shall be actively engaged in steps to acquire. Tenant's interest therein, the time of said mortgagee to comply with the pro V). I of this subsection (except the cure of monetary defaults) shall be extended period as shall be reasonably necessary to complete such steps with reasoii.),,,blc-. diligence, and in the case of the cure of non-monetary defaults, such additio)),,,l time subsequent to the completion of such steps to acquire or sell Tenant's inteicsl herein as shall be reasonably necessary to accomplish same with reasonable diligence. If Tenant's interest is acquired -or sold as aforesaid by foreclosure ol itie leasehold mortgage or otherwise during said 30-day period as same ma@, '@)e extended as aforesaid, the intended termination of the Lease by landlord under iiie aforesaid notice will be automatically nullified and the Lease will continue as if said notice of termination had never been given.

- (e) In the event of termination of the Lease on account of any default by Tenant or on account of any other matter or occurrence whatsoever, Landlord will promptly notify the leasehold mortgagee of such termination and the amount of the suiris then due to Landlord under the Lease (except any payment due in respect of' accelerated rent or liquidated damages), and Landlord will enter into a new lease of the Demised Premises with the leasehold mortgagee or its nominee or designee for the remainder

of the Term, effective as of the date of such termination, at the rents and additional rents and upon the terms, provisions, covenants and agreements as herein contained and subject only to the rights, if any, of any parties then in possession of any part of the Demised Premises, provided:

- (1) Said leasehold mortgagee or its nominee or designee shall make written request upon Landlord for such new lease within 30 days after the leasehold mortgagee receives the notice from Landlord of such termination and such written request is accompanied by said leasehold mortgagee's payment of the sums then due to Landlord under the Lease (except any payment due in respect of accelerated rents or liquidated damages).
- (2) Said leasehold mortgagee or its nominee or designee shall agree to perform and observe all covenants herein contained on Tenant's part to be performed as applied to such leasehold mortgagee or its nominee or designee and shall further remedy any other conditions which Tenant under the terminated lease was obligated to perform.
- (3) The leasehold mortgagee or its nominee or designee as tenant under such new lease shall have the same right, title and interest in and to the and improvements erected on the Demised Premises as Tenant had

the terminated lease.

- (f) Landlord shall, upon request, execute, acknowledge and deliver to each leasehold mortgagee, an agreement prepared at the sole cost and expense of Tenant among Landlord, Tenant and the leasehold mortgagee, agreeing to all of the provisions of this Section.
- (g) The leasehold mortgagee shall be given notice of any condemnation proceedings affecting the Demised Premises, and shall have the right to intervene and be made a party to such condemnation proceedings. Tenant's interest in any award or damages for such taking is hereby set over, transferred and assigned to the leasehold mortgagee as provided for by the terms of the leasehold mortgage or other security instrument.

2. Fee Mortgage. Nothing herein shall affect the right of the Landlord to mortgage or otherwise create a security interest affecting the fee interest in the Demised Premises and to assign the Lease and the fixed annual rent and additional rents due thereunder as security therefor, provided (and subject to the conditions) that: (a) The holder of such fee mortgage shall not, in the exercise of any of its rights arising out of such mortgage or other security instrument disturb or deprive Tenant in or of its possession or its right to possession of the Demised Premises or any part thereof ; (b) In the event of a

default under any such fee mortgage, Tenant shall not be made a party in any action or proceeding to foreclose said mortgage, nor shall Tenant be evicted or removed, or its possession or right of possession be disturbed or in any manner interfered with, and the Lease shall continue in full force and effect as a direct lease from the holder of the fee mortgage, or the purchaser of the Demised Premises at a foreclosure sale pursuant to the fee mortgage, to Tenant under the terms and provisions of the Lease.

3. Miscellaneous.

- (a) Governing Law: This Amendment of Lease shall be governed, interpreted, construed and regulated by the laws of the state in which the Demised Premises are located.
- (b) Partial Invalidity: If any term, covenant, condition or provision of this Amendment of Lease or the application thereof to any person or circumstance shall, at any time or to any extent, be invalid or unenforceable, the remainder of the Amendment of Lease, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term, covenant, condition and provision of the Amendment of Lease shall be valid and be enforced to the fullest extent permitted by law.
- (c) Parties.- Except as expressly provided to the contrary in the Lease, the covenants, conditions and agreements contained in the Lease shall bind and inure to the benefit of Landlord and Tenant and their respective heirs, successors, administrators and assigns.
- (d) Definitions: Capitalized terms not otherwise defined herein shall have the meanings ascribed to such terms in the Lease. The term "leasehold mortgage" whenever used herein shall include whatever security instruments are customarily used in the locale in which the Demised Premises are located, including, without limitation, deeds of trust, security deeds and conditional deeds, as well as financing statements, security agreements and other documentation required pursuant to the Uniform Commercial Code.
- (e) Counterparts: This Amendment may be executed in separate counterparts, each of which when executed and delivered shall be an original, but all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have caused the Amendment of Lease to be executed the day and year first above written.

crand@lord.@@,

By
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Title:

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By:)1(44
Print Nam
Title:

State of O@, 0

Ss.:

County of

On the / day of NQu=ber in the year 1999, before me he undersi a
for said State, personally appearedz&,;q, C. me
or proved to me on the basis of satisfactory eviden'ce to be the individual whose
name is
subscribed to the within instrument and acknowledged to me that he executed the same in
h

capacity, and that by h signature on the instrument, the individual, or the person upon behalf
of which the individual acted, executed the instrument.

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FRANZ A. GEIGER, Aftorney-At-Law
NOTARY PUBLIC, STATE OF OHIO
My commission has no exoration date.
Sedion 147.03 FLC.

State of ~~ny~~-@ @'@,ON)
) Ss.:

County of ~~!5@.i@Vr\~~

zc - **Q m**

On the 2@) day of NuventbiT in the year 1999, before me, the undersigned, a Notary Public in and

for said State, personally appeared personally known **to me**
or proved to me on the basis of satsfattybry evidence to be the individual whose nwne is
subscribed to the within instrument and acknowledged to me that he executed the same in h
capacity, and that by h 9-@-signature on the instrument, the individual, or the person upon
behalf of which the individual acted, executed the instrument.

Nota' Palic

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MARYBETH DELURY

Nlotary **Public**, State of Naw York

No. 01 DE60030@06

-"-,-I;fied in Suffolk **County**

-xpires **March 9, 2000**